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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/733,120	12/08/2000	Florencia Lim	ACSC-59968	4003
24201	7590	12/03/2003	EXAMINER	
FULWIDER PATTON LEE & UTECHT, LLP HOWARD HUGHES CENTER 6060 CENTER DRIVE TENTH FLOOR LOS ANGELES, CA 90045			PELLEGRINO, BRIAN E	
		ART UNIT		PAPER NUMBER
		3738		
DATE MAILED: 12/03/2003				

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/733,120	LIM ET AL.
Period for Reply	Examiner	Art Unit
	Brian E Pellegrino	3738
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.		
<ul style="list-style-type: none"> - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). - Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). 		
Status		
1) <input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>15 September 2003</u> .		
2a) <input type="checkbox"/> This action is FINAL. 2b) <input checked="" type="checkbox"/> This action is non-final.		
3) <input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.		
Disposition of Claims		
4) <input checked="" type="checkbox"/> Claim(s) <u>1-13</u> is/are pending in the application.		
4a) Of the above claim(s) <u>10-13</u> is/are withdrawn from consideration.		
5) <input type="checkbox"/> Claim(s) _____ is/are allowed.		
6) <input checked="" type="checkbox"/> Claim(s) <u>1-9</u> is/are rejected.		
7) <input type="checkbox"/> Claim(s) _____ is/are objected to.		
8) <input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.		
Application Papers		
9) <input type="checkbox"/> The specification is objected to by the Examiner.		
10) <input type="checkbox"/> The drawing(s) filed on _____ is/are: a) <input type="checkbox"/> accepted or b) <input type="checkbox"/> objected to by the Examiner.		
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).		
11) <input checked="" type="checkbox"/> The proposed drawing correction filed on <u>15 September 2003</u> is: a) <input checked="" type="checkbox"/> approved b) <input type="checkbox"/> disapproved by the Examiner.		
If approved, corrected drawings are required in reply to this Office action.		
12) <input type="checkbox"/> The oath or declaration is objected to by the Examiner.		
Priority under 35 U.S.C. §§ 119 and 120		
13) <input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).		
a) <input type="checkbox"/> All b) <input type="checkbox"/> Some * c) <input type="checkbox"/> None of:		
1. <input type="checkbox"/> Certified copies of the priority documents have been received.		
2. <input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.		
3. <input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).		
* See the attached detailed Office action for a list of the certified copies not received.		
14) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).		
a) <input type="checkbox"/> The translation of the foreign language provisional application has been received.		
15) <input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.		
Attachment(s)		
1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)		
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)		
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____		
4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s) _____		
5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)		
6) <input type="checkbox"/> Other: _____		

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/15/03 has been entered.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischell et al. (5792172) in view of Felt et al. '452. Fig. 3 shows a balloon catheter having an elongated shaft **12** and a lumen **19** therein. It can also be seen there is a balloon **52** on the distal section of the shaft. Fischell teaches the balloon is sealingly secured to the shaft so the interior is in fluid communication with the lumen, col. 2, lines 30-38. Fig. 4 illustrates the balloon has a folded noninflated configuration. However, Fischell et al. do not disclose the balloon is made of a polycarbonate based aromatic polyurethane copolymer. Felt teaches a balloon made from a polycarbonate based aromatic polyurethane copolymer or trade-name Bionate, col. 34, lines 56-58,63. The

balloon material of Felt is inherently axially noncompliant. The examiner asserts that the claimed physical properties (in this case, balloon compliance *about* 0.012 to *about* 0.016 mm/atm and a tensile elongation of *about* 250%, a flex modulus *about* 300,000 psi and a rupture pressure greater than 18 atm) are present in the prior art material to some extent even though they are not explicitly recited. Therefore, the examiner hereby burdens the applicant to show that these properties are not present in the prior art. Please note the process of obtaining the polyurethane block copolymer is irrelevant to claim and given no weight because the materials for the balloon are the same. Regarding claim 6, Felt et al. teach that polycarbonates are synthesized using the chain extender 1,4 butanediol, col. 18, lines 53-55,64-66. It would have been obvious to one of ordinary skill in the art to use Bionate as taught by Felt et al. for the balloon of Fischell et al. such that a noncompliant balloon is used to fully deploy the stent and provide optimal flexibility, tensile strength and elongation, (Felt. col. 34, lines 65-67).

Response to Arguments

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Pellegrino whose telephone number is (703) 306-

5899. The examiner can normally be reached on Monday-Thursday from 8am to 5:30pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott, can be reached at (703) 308-2111. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

TC 3700, AU 3738

Brian E. Pellegrino

Brian E. Pellegrino